

MINUTES

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

HON. CHARLES S. COODY, JUDGE AT Montgomery, Alabama

DATE COMMENCED: 4/10/06 **AT**

Montgomery, Alabama

DATE COMPLETED: 4/13/06 TO

UNITED STATES OF AMERICA *

V. *

DON E. SIEGELMAN, et al *
11

GOVERNMENT

APPEARANCES.

DEFENDANT

Atty. J. B. Perrine *
113

Atty. James Tankins

Atty. Joseph Fitzpatrick *
Atty. Joseph Fitzpatrick

Atty. James Jenkins
Atty. Arthur W. Loach

Atty. Arthur W. Leach
Atty. Leslie V. Moore

COURT OFFICIALS PRESENT:

Court Room Deputy: Wanda Stinson

Court Reporter: Jimmy Dickens

Law Clerk: Corrie Long

() NON-JURY TRIAL

(X) OTHER PROCEEDINGS: Motion Hearing re: Preliminary Motion to Dismiss and Challenge of the Composition of Petit Jury Pools

SEE MINUTES ATTACHED

LOG OF PROCEEDINGS ELECTRONICALLY RECORDED			
Description	Motions Hrg - USA v. Siegelman, Scrushy, Hamrick, 05cr119-MEF-CSC		
Date	4/10/2006	Location	Courtroom 4B
Time	Speaker	Note	
9:00:39 AM	Court	Court convenes; parties present; Discussion as to jury challenge selection process; Does either side wish the Rule?	
9:01:00 AM	Atty. Jenkins	Defense does except for expert witness;	
9:01:06 AM	Atty. Perrine	USA request that expert witnesses be able to stay;	
9:01:08 AM	Court	All witness to testify in the matter and are not an expert may be excused until time called to testify;	
9:01:25 AM	Mrs. Hackett	Request that court staff be allowed to go to clerk's office until called;	
9:01:28 AM	Court	You may - we will call you.	
9:01:32 AM	Atty. Jenkins	Ms. Robinson would be first witness;	
9:01:45 AM	Court	Discussion as to how to proceed; Would like to hear evidence first and then arguments at the conclusion; How long as to proceedings will take?	
9:01:59 AM	Atty. Jenkins	Done within 2 days;	
9:02:10 AM	Court	Got 3 days set aside;	
9:02:17 AM	Atty. Perrine	Response;	
9:02:22 AM	Court	Any other preliminary issues to cover;	
9:02:25 AM	Atty. Jenkins	Discussions as to how to handle depositions; The depositions taken in Carmichael filed under seal, have filed the indexes under seal; Have marked them as exhibits in our case and intend to tender them as part this hearing; Do we file original with the Clerk's office or file them here at this hearing;	
9:03:19 AM	Court	You can file them here, my CRD is a Deputy Clerk; Can go ahead and file them during this proceeding;	
9:03:30 AM	Atty. Jenkins	Discussions as to jurors names mentioned in depositions; In some of the depositions and some of the exhibits there would be juror identification information in addition to participant numbers;	
9:04:11 AM	Court	Is the name necessary for the court's understanding of the issues?	
9:04:14 AM	Atty. Jenkins	No it's not. We won't say those names out loud in the courtroom, once we get the record all together, we can get with the Clerk and black those out;	
9:04:26 AM	Court	Let's do that;	
9:04:28 AM	Atty. Perrine	The United States is fine with that;	
9:04:30 AM	Court	Let's do that before depositions are filed, if we can;	
9:04:36 AM	Atty. Jenkins	Don't think we will physically be able to do that because the witnesses are viewing the depositions to sign them;	
9:04:43 AM	Court	The court ORDERS depositions to be filed under seal on a temporary basis pending the blacking out of the jurors name at which point the Clerk may then unseal them;	

9:05:21 AM	Atty. Jenkins	Calls Wanda Robinson, Former Jury Administrator; witness is sworn and seated; Discussions as to why manual removing 291 previously deferred jurors out of the Deferral maintenance pool and into the Qualified jury wheel; Discussions as to ACS; Discussion regarding jury processing of the master and qualified jury wheel;
9:10:37 AM	Atty. Perrine	Objection - leading;
9:10:43 AM	Court	Will be a little more lenient about leading; addresses concerns as to what the terms means such deferred;
9:11:20 AM	Atty. Jenkins	Response; Cont'd testimony; Discussions as to educational and job history; Discussions as to training of JMS; Discussion of Deft's Ex. 2; Discussions of Deft's Exh. #65; Offer to tender Deft's #65;
9:35:34 AM	Court	It's admitted;
9:35:46 AM	Atty. Jenkins	Cont' testimony;
9:38:09 AM	Atty. Perrine	Objection - leading;
9:38:17 AM	Court	Question to counsel - What difference does it make?
9:38:21 AM	Atty. Jenkins	Response - there may be some dysfunction with the JMS;
9:38:44 AM	Court	Response; Objection is Overruled;
9:39:03 AM	Atty. Jenkins	Cont'd testimony; Discussion as to the creation of the 2001 master jury wheel; Discussion of Deft's #122; Offer to tender Deft's 122;
10:03:16 AM	Court	It's admitted;
10:03:23 AM	Atty. Jenkins	Cont'd testimony; Discussion as to other reports run by JMS; Discussion as to Deft's 67;
10:09:16 AM	Court	Questions to witness as to the rare use of two separate courtrooms to select juries; Discussions as to the jury selection process in this court;
10:10:17 AM	Atty. Jenkins	Cont's testimony of witness; Offer Deft's Exh. #67;
10:12:49 AM	Court	It's admitted;
10:12:58 AM	Atty. Jenkins	Cont'd testimony; Discussions as to deferred and temporarily excused juror; Discussion and review of Deft's Exh. #114; Offer to tender Deft's Exh #114
10:33:56 AM	Court	It's admitted; Court will take a RECESS until 10:50 a.m.
10:51:42 AM	Court	Court RECONVENES;
10:51:50 AM	Atty. Jenkins	Testimony continues; Discussion as to JS12 for 2001 qualified wheel and race, gender reports; Review of Deft's Exh. #67; Discussion and review of Deft's Exh. #115;Offer Deft's Exh. 115;
10:56:33 AM	Court	It's admitted;
10:56:37 AM	Atty. Jenkins	Cont'd testimony; Discussion and review Deft's Exh. #116; Offer to admit Deft's #116;
11:02:51 AM	Court	It's Admitted;
11:02:57 AM	Atty. Jenkins	Cont'd testimony; Offer to admit Deft Exh #117;
11:04:42 AM	Court	It's admitted;
11:04:48 AM	Atty. Jenkins	Discussion and review of Deft's Exh. 118; Offer Deft's Exh. #118
11:06:22 AM	Court	It's admitted;

11:06:30 AM	Atty. Jenkins	Discussion and review of Deft's #119; Offer Deft Exh. #119;
11:09:55 AM	Court	It's Admitted;
11:10:03 AM	Atty. Jenkins	Cont'd testimony ; Review of Deft's Exh. #120; Offer Deft's Exh. #120;
11:13:25 AM	Court	It's admitted;
11:13:30 AM	Atty. Jenkins	Cont'd testimony; Discussion as to process for deferral jurors; Discussion and review Dft's Exh. #121; Discussion of juror history files; Offers Deft's Exh. #121;
11:50:20 AM	Court	It's admitted;
11:50:25 AM	Atty. Jenkins	Cont'd testimony; Discussion as to changed deferral juror process;
11:54:06 AM	Court	Questions as to discussion as to events happening within the 2001 wheel and not the 2005 wheel;
11:54:43 AM	Atty. Jenkins	Yes. Cont'd testimony; Review of Deft's Exh. #17; Offer Deft's Exh. #17;
12:05:06 PM	Court	It's admitted;
12:05:14 PM	Atty. Jenkins	Cont'd testimony; Discussion and review of Deft's Exh. #37- Pool Selection Report; Have juror names on report;
12:08:23 PM	Atty. Perrine	Ask that names be redacted;
12:08:33 PM	Atty. Jenkins	We can black out names;
12:08:49 PM	Atty. Jenkins	Cont'd testimony; Discussion and review of 37-C;
12:16:10 PM	Court	Question to counsel as to the Grand Jury comprised of more than 10 percentage of deferred jurors;
12:16:32 PM	Atty. Jenkins	Response;
12:16:37 PM	Court	Discussion of GJ came out of the 2001 wheel;
12:17:11 PM	Atty. Jenkins	Response - as to flaw to the 2001 grand jury;
12:18:07 PM	Court	Response and discussion as to the confusion of the 15 percent issue;
12:19:30 PM	Atty. Jenkins	Response;
12:20:03 PM	Court	Will take a recess for LUNCH until 1:30 p.m.
1:30:33 PM	Court	Court RECONVENES;
1:30:40 PM	Atty. Jenkins	Response to challenges as to 10 percent desparity; Discussion regarding mis treatment of deferrals as a nonrandom process which does relate to our 5th & 6th amendments challenges;
1:32:01 PM	Court	Discussions on understanding of argument ;
1:34:37 PM	Atty. Jenkins	Response;
1:34:53 PM	Court	Response; Discussion as to the differnce in standards and the use of word venire for the purpose of the 10% disparity rule it means the qualified jury wheel;
1:35:59 PM	Atty. Jenkins	Refers to the case USA v. Holstick and Judge Thompson's opinion as to the qualified wheel;
1:38:25 PM	Court	Response; Discussion as to the questions about the 15 percent;
1:39:09 PM	Atty. Jenkins	Response;
1:42:30 PM	Court	Response as to Clay issue;

1:43:32 PM	Atty. Jenkins	Continued testimony of witness; Discussions and review of Deft's Exh. #37-C, B; Offer Deft's # 37A, B, C;
1:52:04 PM	Court	They are admitted;
1:52:13 PM	Atty. Jenkins	Cont'd testimony; Discussion of series of Deft's Exhibits 19 thru 63 with the exception of 42 - unused number; Offer to admit them;
1:54:13 PM	Court	They are admitted;
1:54:19 PM	Atty. Jenkins	Cont'd testimony; Discussion and review of exhibit #66; Discussion and review of Deft's Exh. #111; Offer Deft's Exh. #111;
2:10:19 PM	Court	It's admitted;
2:10:25 PM	Atty. Jenkins	Cont'd testimony; Discussion and review of Deft's Exh. #110 ; Move to admit Deft's Exh. #110;
2:12:05 PM	Court	It's admitted;
2:12:15 PM	Atty. Jenkins	Cont'd testimony; Discussion and review of Deft's Exh. #109; Move to admit Deft's Exh. #109 ;
2:13:04 PM	Court	It's admitted;
2:13:40 PM	Atty. Jenkins	That's all for this witness;
2:13:50 PM	Court	Cross;
2:13:57 PM	Atty. Perrine	Cross - examination; Discussion of the movement of jurors from the deferred maintenance pool to the qualified wheel by hitting the button "Return to Master";
2:15:46 PM	Court	Questions to witness as to why return jurors to master wheel;
2:16:02 PM	Witness	Response;
2:16:14 PM	Court	Why not put back into the qualified jury wheel? How would that tainted the number on a deferred pool?
2:16:25 PM	Witness	Response;
2:16:37 PM	Court	Discussion that all jurors took from the maintenance pool and tried to put back into the master wheel, had their period of excused or deferment expired?
2:16:58 PM	Witness	Yes;
2:17:00 PM	Atty. Perrine	Cont'd testimony; Discussion and review of Deft's Exh. 37A;
2:26:34 PM	Atty. Jenkins	Objection;
2:26:48 PM	Court	Response as to what is meant by loss of deferral status;
2:26:59 PM	Atty. Perrine	Response as to the Government's position;
2:27:36 PM	Court	Response as to the understanding of the Govt. position under the plan;
2:27:47 PM	Atty. Perrine	Response;
2:27:55 PM	Atty. Jenkins	Response;
2:28:02 PM	Court	Objections is sustained;
2:28:13 PM	Atty. Perrine	Cont'd testimony; Offer to admit Govt. Exh. C;
2:32:48 PM	Atty. Jenkins	Have no objections;
2:33:03 PM	Court	It's admitted;
2:33:21 PM	Atty. Perrine	Cont'd testimony;
2:34:44 PM	Atty. Jenkins	Objection;
2:34:51 PM	Court	Will take her testimony as being her understanding and her factual knowledge;

2:35:18 PM	Atty. Perrine	Cont'd testimony; Discussion and review of Deft's Exh. #122; Discussion and review of Deft's Exh. #67;
2:43:04 PM		
2:43:06 PM	Court	Questions to witness as to racial composition of jurors served in this case;
2:43:07 PM	Atty. Perrine	Response;
2:43:16 PM	Court	Response that the terminology is confusing; What is pool being referred to?
2:43:29 PM	Atty. Perrine	Response - Pool is the entire group of people that get summons;
2:44:34 PM	Court	Response; What does the pool report reflect;
2:45:24 PM	Witness	Response;
2:46:12 PM	Court	Response as to panel report and the selection process;
2:47:21 PM	Atty. Jenkins	Response;
2:47:41 PM	Atty. Perrine	Cont'd testimony; Discussion and review of Deft's Exh. #117; Discussion and review of Deft's Exh. #120;
3:05:00 PM	Court	Will take RECESS until 3:20 p.m.
3:22:23 PM	Court	Court RECONVENES;
3:22:25 PM	Atty. Jenkins	Re- direct; Discussion and review of Deft's Exh. #126 and Exh. #2; Discussion and review of Deft's Exh. # 127 & 128; Move to admit Deft' Exh. #127 & 128;
3:46:46 PM	Court	They are admitted;
3:46:51 PM	Atty. Jenkins	Cont'd re- direct;
3:52:36 PM	Court	Discussions as to software;
3:52:48 PM	Atty. Jenkins	Don't have access to that;
3:53:06 PM	Court	Discussion as to how software is loaded;
3:53:24 PM	Atty. Jenkins	Response as if software was correctly loaded;
3:53:54 PM	Atty. Perrine	Re- cross; Discussions as to who updates the software;
3:55:51 PM	Court	Witness is excused;
3:56:09 PM	Atty. Jenkins	Offer Deft's Exh. #2 and #126;
3:56:20 PM	Court	They are admitted;
3:56:44 PM	Court	Discussions of software;
3:57:05 PM	Atty. Jenkins	Response ;
3:59:56 PM	Court	Discussion regarding violation of the acts putting applications back in the qualified wheel;
4:00:42 PM	Atty. Jenkins	Response;
4:01:18 PM	Court	Discussion as to what difference would it make?
4:01:47 PM	Atty. Jenkins	Response;
4:02:20 PM	Court	Discussion as to any evidence;
4:02:33 PM	Atty. Jenkins	Response;
4:02:44 PM	Court	Response;
4:02:51 PM	Atty. Jenkins	Response;
4:03:04 PM	Court	Questions and to the random selection process;
4:03:28 PM	Atty. Jenkins	Response;
4:04:15 PM	Court	Response as to violation;
4:05:09 PM	Atty. Jenkins	Response;

4:05:18 PM	Court	Discussion as to composition of the pool and violation of the act;
4:06:20 PM	Atty. Jenkins	Response;
4:09:10 PM	Atty. Jenkins	Calls Melissa Myers; witness is sworn and seated; Discussion and review of Deft's Exh #2 and Exh. 126; Discussion of Deft's Exh. #65; Discussion and review of Deft's Exh. #64; Offer Deft's Exh. #64;
4:34:59 PM	Court	It's admitted;
4:35:03 PM	Atty. Jenkins	Cont'd testimony; Discussion as to deferral jurors process;
4:50:15 PM	Court	Question to witness as to names that go into the pool;
4:50:40 PM	Witness	Response;
4:50:45 PM	Court	The drop down button for that is called what?
4:50:56 PM	Witness	It just said referral;
4:51:03 PM	Atty. Jenkins	Cont'd testimony;
4:51:06 PM	Court	Will break at 5:00 p.m. this evening; How many more witness;
4:51:32 PM	Atty. Jenkins	Mrs. Hackett and Dr. Gunlach;
4:51:35 PM	Court	The Government is going to have?
4:51:40 PM	Atty. Perrine	One witness, Mr. Elmore;
4:52:03 PM	Court	Will begin at 9:00 a.m. tomorrow morning;
4:52:28 PM	Court	Court is recessed;

LOG OF PROCEEDINGS ELECTRONICALLY RECORDED			
Description	Motions hearing - USA v. Siegelman, et al 05cr119-MEF		
Date	4/11/2006	Location	Courtroom 4B
Time	Speaker	Note	
9:01:09 AM	Court	Court convenes; Parties present;	
9:01:11 AM	Atty. Jenkins	Cont'd direct examination of witness - Melissa Myers; Discussion and review of Deft's Exh. #66; Discussion and review of Deft's Exh. #17;	
9:52:57 AM	Court	Question to witness re: deferral pool process;	
9:53:30 AM	Atty. Jenkins	Cont'd testimony; Discussion and review of Deft's Exh. #107;	
10:09:21 AM	Court	Questions as to the 2005 wheel and participant numbers in the qualified jury wheel;	
10:09:42 AM	Atty. Jenkins	Response;	
10:10:11 AM	Court	Have asked Cornelius White to come to the courtroom to discuss this matter;	
10:10:49 AM	Atty. Jenkins	Cont'd testimony; Discussion and review of Deft's Exh. #67;	
10:17:13 AM	Atty. Perrine	Cross - examination; Discussion re: JS12 Report;	
10:30:21 AM	Court	Will take our morning recess; Mr. White enters courtroom; Would like to ask Mr. White to look at the JMS system; Is that set up for 2 step court; Function in system as to deferral pool buttons;	
10:31:17 AM	Mr. White	Yes it is;	
10:31:26 AM	Court	Discussion regarding a function in the system relating to the deferred maintenance pool; Court wants to know, when that screen comes up is there a button that says return to master, return to qualified jury wheel;	
10:31:57 AM	Mr. White	I would have to go look at it;	
10:32:01 AM	Court	Is it possible to know whether a particular participant number is in the present 2005 qualified wheel;	
10:32:16 AM	Atty. Jenkins	Response to looking at participant numbers;	
10:33:24 AM	Court	Want to know what the screen shows; Will take recess until 10:55 p.m.;	
10:34:06 AM	Atty. Jenkins	Addresses the court as to Ms. Chartoff assistance with counsel;	
10:34:23 AM	Court	We will be in RECESS;	
10:56:43 AM	Court	Court RECONVENE;	
10:56:48 AM	Atty. Perrine	Cont'd testimony;	
11:01:47 AM	Court	Mr. White returns to courtroom; Mrs. Myers excused from the stand to allow testimony of Mr. Cornelius White;	
11:02:19 AM	Atty. Jenkins	Would like to invoke the rule;	
11:02:22 AM	Court	Intend to limit the examination of Mr. White;	
11:02:27 AM	Atty. Jenkins	Invoke the rule at this time;	
11:02:34 AM	Court	Mrs. Myers is excused from the courtroom; Question to witness regarding print screen; Let's mark those as court exhibit 1 & 2; Is there a way to delete all of the persons in the deferred maintenance screen;	
11:04:59 AM	Mr. White	Not within that screen;	
11:05:04 AM	Court	Is there any other way to do it?	

11:05:04 AM	Mr. White	Through participant history;
11:05:38 AM	Atty. Jenkins	Questions to witness as to way to delete ;
11:05:55 AM	Mr. White	There is no delete function;
11:05:55 AM	Atty. Jenkins	Cont'd testimony;
11:06:34 AM	Atty. Perrine	Questions to witness as to the current version of software;
11:10:44 AM	Att. Jenkins	Questions to witness regarding updating software;
11:15:45 AM	Atty. Perrine	Questions to witness;
11:16:22 AM	Court	Witness is excused; Court exhibits 1 & 2 are admitted;
11:16:59 AM	Atty. Perrine	Cont'd testimony of Melissa Myers; Discussion and review of Gvt. Exh. G; Discussion and review of Gvt. Exh. H; Offer to admit Gvt. Exh. G & H;
11:50:17 AM	Court	They are admitted;
11:50:27 AM	Atty. Perrine	Cont'd testimony; Discussion and review Deft's Exh. #65;
11:59:54 AM	Court	Will RECESS until 1:00 p.m. - LUNCH
1:02:08 PM	Court	Court RECONVENES;
1:02:10 PM	Atty. Perrine	Testimony resume - Melissa Myers;
1:07:27 PM	Court	Questions to witness as to 15 percent limit means?;
1:07:39 PM	Witness	Response;
1:08:09 PM	Atty. Perrine	Cont'd testimony;
1:11:24 PM	Court	Side bar with counsel;
1:11:34 PM	Atty. Perrine	Cont'd testimony;
1:24:08 PM	Atty. Jenkins	Re-direct;
1:39:35 PM	Court	Witness is excused;
1:40:48 PM	Atty. Jenkins	Calls Debbie Hackett; Moves to offer Deft's Exh. #107;
1:41:31 PM	Court	It's admitted;
1:45:55 PM	Atty. Jenkins	Testimony begins - Debra P. Hackett, Clerk of Court; witness is sworn and seated; Discussion and review of Deft's Exh. #112 & #113; Move to admit Deft's Exh. #112 & #113;
2:07:21 PM	Court	They are admitted;
2:07:26 PM	Atty. Jenkins	Cont'd testimony; Discussions as to participant numbers; Discussion and review of Deft's Exh. #122;
2:45:29 PM	Court	Will take recess until 3:05 p.m.;
3:05:26 PM	Court	Court RECONVENES;
3:05:53 PM	Atty. Jenkins	Testimony resumes - Debra P. Hackett; Review of deposition taken on April 6th 2006; Discussion and review of Deft's Exh. #17; Discussion and review of Deft's Exh. #66;
3:24:40 PM	Court	Addresses concern as to the characterization evidence of violation as an evidentiary matter;
3:38:07 PM	Atty. Jenkins	Cont'd testimony;
4:05:57 PM	Atty. Perrine	Cross - examination; Discussion and review of Gvt. Exh. I; Offer to admit Gvt. Exh. I;
4:28:10 PM	Court	It's admitted;
4:28:16 PM	Atty. Perrine	Cont'd testimony;
4:30:00 PM	Atty. Jenkins	Re- direct ;
4:32:50 PM	Court	Witness is excused; Next witness is Dr. Gunlach;

4:33:24 PM	Atty. Jenkins	Will take 2-3 hours;
4:33:35 PM	Atty. Perrine	Expert - 2 hours;
4:33:46 PM	Court	Will be in recess until 8:30 a.m. tomorrow;
4:35:04 PM	Court	Court is recessed.

LOG OF PROCEEDINGS ELECTRONICALLY RECORDED

Description	Motions Hearing - USA v. Siegleman, 05cr119-MEF	
Date	4/12/2006	Location Courtroom 4B
Time	Speaker	Note
8:32:12 AM	Court	Court Convenes;
8:32:14 AM	Atty. Jenkins	Discussion as to data for the upcoming jury selection pool for the trial; Would like for the court to instruct the Clerk to provide us with pool selection reports in the 2005 wheel that will update our data; Calls Dr. Gunlach, witness is sworn and seated; Discussion as to data for upcoming trial 2005 qualified jury pool selection reports;
8:33:48 AM	Court	Have you gotten to pool selection reports for this jury;
8:34:00 AM	Atty. Jenkins	No sir, we haven't;
8:34:09 AM	Court	You not have the pool selection report for this case;
8:34:59 AM	Atty. Jenkins	Discussion of availability of pool selection and report; Ask the court to leave the record open to supplement it with that information;
8:35:11 AM	Court	You may do that;
8:35:20 AM	Atty. Jenkins	Testimony beings with Dr. Gunlach; Discussion and review of Deft's Exh. #1; Offer Deft's
8:39:47 AM	Court	It's Admitted;
8:39:53 AM	Atty. Jenkins	Cont'd testimony; offer witness as an expert in;
8:40:15 AM	Atty. Perrine	Response; agreed to the first two
8:40:38 AM	Court	Response; permitted to testify under Rule 702 ; witness composition issues;
8:41:35 AM	Atty. Jenkins	Response; testimony resumes;
8:43:42 AM	Court	What do you mean when you say jury pool;
8:43:45 AM	Witness	Response;
8:43:51 AM	Court	Response;
8:44:14 AM	Atty. Jenkins	Cont's testimony; Discussion and review of Deft's Exh. #19A; Discussion and review of Deft's #64; Move to admit Deft's Exh. #64;
8:56:20 AM	Court	It's admitted;
8:56:26 AM	Atty. Jenkins	Cont'd testimony;
9:23:03 AM	Court	Questions to witness re; Census data;
9:26:21 AM	Atty. Jenkins	Cont'd testimony; discussion of the racial composition of the 2001 ; Move to admit Deft's #14;
9:54:27 AM	Court	It's admitted;
9:54:32 AM	Atty. Jenkins	Cont'd testimony;
10:07:33 AM	Court	Will take morning RECESS until 10:30 a.m.
10:30:00 AM	Court	Court RECONVENES;
10:30:04 AM	Atty. Jenkins	Cont'd testimony; Discussion and review of Deft's Exh. #15;
10:41:37 AM	Court	Question to witness as to page 9 of report;
10:46:48 AM	Atty. Jenkins	Cont'd testimony; Move to admit Deft's Exh. #15;
10:47:18 AM	Court	It's admitted;
10:47:25 AM	Atty. Jenkins	Cont'd testimony; Discussion and review of Deft's Exh. #16; Offer to admit Deft's Exh. #16;
11:30:38 AM	Court	It's admitted;
11:31:02 AM	Court	Question to witness;

11:32:19 AM	Atty. Jenkins	Cont'd testimony; Discussion and review of Deft's Exh. #18; Move to admit Deft's Exh. #18;
11:35:48 AM	Court	It's admitted;
11:35:59 AM	Atty. Jenkins	Cont'd testimony;
11:36:32 AM	Court	Question to witness as to Exh. #18;
11:36:55 AM	Atty. Jenkins	Cont'd testimony; Discussion and review of Deft's Exh. #37;
11:39:02 AM	Court	Question to witness re: the previously returned to qualified wheel;
11:39:31 AM	Atty. Jenkins	Cont'd testimony; Discussion as to Wanda Robinson's transaction as to DCHG transaction - a task to change the deferral record; Discussion and review of Deft's exh. #125;
12:00:18 PM	Court	Will take 10 min recess;
12:11:22 PM	Atty. Jenkins	Move to admit Deft's Exh. #125;
12:11:23 PM	Court	It's admitted;
12:11:31 PM	Atty. Jenkins	Cont'd testimony; Discussions as to the scattering violations;
12:46:37 PM	Court	Question to witness as to conclusion re: some juror request for referral;
12:47:19 PM	Atty. Jenkins	Will done in 10 min on Direct;
12:47:33 PM	Court	Will take a RECESS (LUNCH) until @ 2:00 p.m. ;
2:14:08 PM	Court	Court RECONVENES;
2:14:14 PM	Atty. Jenkins	Cont'd testimony; Move to admit Deft's Exh. #101 to #108 ;
2:16:31 PM	Court	There are admitted;
2:18:05 PM	Atty. Jenkins	Cont'd testimony;
2:47:02 PM	Atty. Perrine	Cross - examination ; Discussion and review of Gvt.'s Exh. A;
3:38:56 PM	Atty. Jenkins	Re-direct ; Discussion as to racial impact of excused jurors;
4:01:04 PM	Court	Will take 10 min RECESS;
4:13:10 PM	Court	Court RECONVENES;
4:13:14 PM	Atty. Jenkins	Cont'd testimony;
4:14:01 PM	Atty. Perrine	Re- Cross examination;
4:17:43 PM	Court	Questions to witness re: treatment of previously deferred jurors that makes the pool more white;
4:18:21 PM	Witness	Response;
4:18:57 PM	Court	Response as to rate of request;
4:19:26 PM	Witness	Response;
4:19:41 PM	Court	Discussions a to rate granted then actual rate of deferrals;
4:20:03 PM	Witness	Response;
4:20:32 PM	Court	Question to witness;
4:22:02 PM	Court	Witness is excused;
4:22:15 PM	Atty. Jenkins	Addresses the court re : depositions; Deposition of Stephen Andrewis of ACS;
4:24:43 PM	Court	How long for Dr. Emore;
4:24:58 PM	Atty. Perrine	Will take about 1 hr. 1/2 on direct;
4:25:18 PM	Atty. Jenkins	Response on cross examination;
4:25:35 PM	Court	Response;

4:26:07 PM	Atty. Perrine	Calls Dr. Stephen Elmore, Sr. ; witness is sworn and seated; Discussion and review of Gvt.'s Exh. A; Move for admission of Gvt.'s Exh. A;
4:31:54 PM	Court	It's admitted;
4:32:02 PM	Atty. Perrine	Cont'd testimony;
5:19:26 PM	Atty. Jenkins	Objection to answer of his opinion;
5:19:37 PM	Court	Response;
5:20:04 PM	Atty. Perrine	Cont'd testimony; Discussion and review of Gvt.'s Exh. B, D; Move to enter Gvt. Exh. B & D into evidence;
5:23:06 PM	Court	They are admitted;
5:23:19 PM	Perrine	Cont'd testimony; Discussion and review of Gvt.'s Exh. J; Move to admit Gvt. Exh. J;
5:41:59 PM	Court	It's admitted;
5:42:22 PM	Court	Explain the difference to Deft's Exh. #125;
5:42:37 PM	Atty. Perrine	Cont'd testimony;
5:45:22 PM	Court	Will take recess and reconvene at 9:00 a.m. in the morning;

LOG OF PROCEEDINGS ELECTRONICALLY RECORDED

Description	Motions hearing - USA v. Scurshy, et al , 05cr119-MEF	
Date	4/13/2006	Location Courtroom 4B
Time	Speaker	Note
12:29:00 AM	Atty. Perrine	Cont'd testimony; Offer Gvt. Exh. L;
9:00:41 AM	Court	Court convenes; parties present;
9:00:46 AM	Atty. Perrine	Testimony resumes - Dr. Elmore; Reivew and discussion of Gvt.'s Exh. A;
9:30:39 AM	Atty. Jenkins	Cross - examination; Move to admit Deft's Exh. #129
10:04:25 AM	Court	It's admitted;
10:04:26 AM	Atty. Jenkins	Cont'd testimony;
10:11:41 AM	Court	Question and discussion as to clustering issue;
10:12:54 AM	Atty. Jenkins	Response;
10:13:09 AM	Court	Discussion as to 15 % limitation issue applies to the Grand Jury;
10:13:29 AM	Atty. Jenkins	Response; cont'd testimony of witness;
10:19:24 AM	Court	Question to witness; as to treatment of jurors;
10:20:00 AM	Atty. Jenkins	Cont'd testimony;
10:23:49 AM	Court	Will take RECESS until 10:45 a.m.;
10:47:16 AM	Court	Court Reconvenes; Side bar with counsel - off record;
10:47:54 AM	Atty. Jenkins	Cont'd testimony;
11:30:56 AM	Court	Discussions and understanding as to Exh. 9 attachment to report;
11:31:22 AM	Witness	Response;
11:31:35 AM	Court	Discussion as to total columns and what they represent;
11:31:52 AM	Witness	Response;
11:31:57 AM	Court	Discussion as to first sub-column;
11:32:23 AM	Witness	Response;
11:32:29 AM	Court	Discussion as to third column;
11:32:57 AM	Witness	Response;
11:33:20 AM	Court	Questions to including jurors in wheel would show more white;
11:33:51 AM	Witness	Response;
11:34:33 AM	Court	Discussions as to the assumption of more white;
11:34:56 AM	Witness	Response;
11:35:01 AM	Court	Response;
11:35:20 AM	Atty. Jenkins	Cont'd testimony; Discussions as to the 10% absolute disparity; Offer to admit Deft's Exh. #130;
12:12:31 PM	Court	It's admitted;
12:12:39 PM	Atty. Jenkins	Cont'd testimony;
12:17:00 PM	Atty. Perrine	Re-direct; Offer to admit Gvt. Exh. K;
12:34:56 PM	Court	It's admitted;
12:40:16 PM	Court	It's admitted;
12:40:21 PM	Atty. Perrine	Cont'd testimony;
12:41:33 PM	Court	Witness is excused;
12:41:37 PM	Atty. Perrine	Addresses the court as to jury pool report;
12:42:22 PM	Court	Will recess for lunch - reconvene at 2:00 p.m.

2:02:13 PM	Court	Court Reconvenes;
2:02:22 PM	Court	Questions to Deft cnsl re: jury selection process;
2:02:47 PM	Atty. Jenkins	Response;
2:10:53 PM	Court	Discussions as to delay in issues;
2:13:20 PM	Atty. Jenkins	Discussion as to JSM statutory violations;
2:18:53 PM	Atty. Jenkins	Response;
2:19:04 PM	Court	Questions as to inconsistence to leave grand jury out;
2:19:43 PM	Atty. Jenkins	Response regarding the Middle District plan and jury selection process;
2:22:29 PM	Court	What was the problem in Clay?
2:22:41 PM	Atty. Jenkins	Response;
2:24:26 PM	Court	Where is the substantial violation here?;
2:24:34 PM	Atty Jenkins	Response;
2:25:16 PM	Court	Response - not a violation of the act; It can be a violation if the 15% rule applies to the selection of the grand jury;
2:26:03 PM	Atty. Jenkins	Response as to 15% violation; Discussion as to the deferral definition; Discussion as to the Wanda Robinson tranactions;
2:27:01 PM	Court	The Dump;
2:27:07 PM	Atty. Jenkins	Response;
2:27:32 PM	Court	Why is that a substantial violation?
2:27:39 PM	Atty. Jenkins	Response - it moved a bunch of juors; It wasn't an accident;
2:28:23 PM	Court	She testified she thought she was putting them back in the master wheel;
2:28:23 PM	Atty. Jenkins	Response;
2:33:09 PM	Court	Discussions to effects on anything toput them back into the qualified wheel;
2:33:52 PM	Atty. Jenkins	Response; What happend at that point and time polluted the wheel;
2:34:18 PM	Court	Discussion as to term polluted; Discussions as to what the statutes saids;
2:35:56 PM	Atty. Jenkins	Response;
2:37:17 PM	Court	Addresses argument;
2:37:26 PM	Atty. Jenkins	Response;
2:37:39 PM	Court	Refers to the act;
2:38:09 PM	Atty. Jenkins	Response;
2:39:07 PM	Court	response;
2:39:14 PM	Atty. Jenkins	Response;
2:39:21 PM	Court	Any evidence that Ms. Robinson was aware of or took into account the race of those individuals;
2:39:30 PM	Atty. Jenkins	Response;
2:41:41 PM	Court	Discussions of existence of substantial violation; Discussions as to evidencend randomlization violation of the act;
2:43:01 PM	Atty. Jenkins	Response;
2:44:13 PM	Court	Response;
2:45:17 PM	Atty. Jenkins	Discussions as to clerk's policy;

2:47:04 PM	Court	Discussions as to if a standard was properly applied, why believe that the standard would affect blacks and white differently;
2:48:07 PM	Atty. Jenkins	Response;
2:48:44 PM	Court	Discussions as to rate of referrals;
2:49:02 PM	Atty. Jenkins	Response as to control of the racial desparity;
2:50:00 PM	Court	Discussions as to the deferral process to cause the pool to become more white, what wrong with that?
2:50:32 PM	Atty. Jenkins	Response;
2:51:04 PM	Court	Discussion as to what the act said;
2:51:15 PM	Atty. Jenkins	Response;
2:51:50 PM	Court	Your next issue;
2:52:02 PM	Atty. Jenkins	Response as to other random violations; Discussions as to the Melissa Myers violations;
2:54:33 PM	Court	Response as to how violation happened;
2:54:44 PM	Atty. Jenkins	Response - not having enough jurors;
2:58:29 PM	Court	Discussions as to computer programs that are setup to accept data;
2:59:10 PM	Atty. Jenkins	Response;
2:59:43 PM	Court	Percentage are already in there; If it happens accidental, what happens then;
3:00:14 PM	Atty. Jenkins	Response;
3:22:58 PM	Court	Discussions as to the substantial violation of the act;
3:23:02 PM	Atty. Perrine	Govt. position of violation of the act;
3:40:04 PM	Court	Discussions as to the 6th amendment;
3:40:21 PM	Atty. Jenkins	Response as to whether or not software was changed; Discussion as to fair cross section;
3:45:19 PM	Court	Question as to what the community ought to be;
3:45:30 PM	Atty. Jenkins	Response - the 2000 census figures;
3:46:09 PM	Court	Do I use the black population as a whole for the district?
3:46:20 PM	Atty. Jenkins	Response;
3:46:48 PM	Court	It's going to include people who are not eligible to serve as a juror;
3:47:19 PM	Atty. Jenkins	Response;
3:49:24 PM	Court	Response as to why use the voter list? It's too under inclusive;
3:49:54 PM	Atty. Perrine	Response;
3:50:26 PM	Court	Discussions if we use the voter list?
3:50:54 PM	Atty. Perrine	Response;
3:51:26 PM	Court	Discussions as to what congress say;
3:51:33 PM	Atty. Perrine	Response;
3:52:01 PM	Court	Response;
3:52:34 PM	Atty. Perrine	Response;
3:53:39 PM	Court	Discussions as to the test; How do you meet that test?;
3:54:03 PM	Atty. Jenkins	Response;
4:00:12 PM	Court	Discussion as to violation of the 6th amendment;
4:00:21 PM	Atty. Jenkins	Response - believes it is;
4:01:03 PM	Court	Discussions on the bright line rules; Discussions as to the individual pools;
4:01:49 PM	Atty. Jenkins	Response;

4:02:23 PM	Court	Discussions and understanding as to what Dr. Gunlach did;
4:04:13 PM	Atty. Jenkins	Response and ask that the court to look at #10 of the report;
4:07:46 PM	Court	Response;
4:07:58 PM	Atty. Jenkins	Response;
4:08:23 PM	Court	Hypothetical to issue as to how time effects something; Question as to if burden of proof been met? Ther is no evidence about the error of mearsurement and the court doesn't know how to judge the reliability of these figures;
4:09:23 PM	Atty. Jenkins	Response as to burden of proof;
4:10:48 PM	Court	Where in system that causes this?
4:11:05 PM	Atty. Jenkins	Response - irregularities in violations of the Middle District plan;
4:11:46 PM	Court	Discussions as to Duren;
4:12:29 PM	Atty. Jenkins	Response as to meaning of systematic;
4:13:13 PM	Atty. Perrine	Addresses the court as to evidence on the qualified jury wheel;
4:14:49 PM	Court	Response as to systematic exclusion;
4:15:03 PM	Atty. Perrine	Response as to inherent problem;
4:18:56 PM	Atty. Jenkins	Addresses the court as to race neutral;
4:19:25 PM	Court	Addresses difficulties with claim regarding race;
4:20:24 PM	Atty. Jenkins	Discussions as to the absolute desparity;
4:21:26 PM	Court	Response to concern;
4:22:00 PM	Atty. Jenkins	Addresses the the 5th amendment claim;
4:22:11 PM	Court	Discussions as to the equal protection component and due process component;
4:22:18 PM	Atty. Jenkins	Response - both are the same;
4:23:04 PM	Court	Will RECESS until 4:35 p.m.;
4:35:35 PM	Court	Court RECONVENES;
4:35:38 PM	Atty. Jenkins	Cont'd arguments;
4:39:29 PM	Court	
4:39:44 PM	Court	Court is recessed.